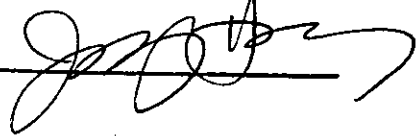


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FILED
JAN 14 2005

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

CHARLES DUFFY RIEBE,

Respondent.

)
) No. H-1998 SA
) H-28209 LA
)
)
)
)

AMENDED ORDER DENYING REINSTATEMENT OF LICENSE

This Order amends the Order Denying Reinstatement of License filed on December 15, 2004.

On July 6, 2000, a Decision was rendered in Department of Real Estate ("Department") case no. H-28209 LA revoking Respondent's real estate salesperson license. On July 19, 2000, Respondent petitioned for reconsideration of the Decision. The Decision which was to become effective on August 3, 2000 was stayed until September 15, 2000. On September 13, 2000, an Order Denying Reconsideration was filed.

On March 13, 2003, Respondent petitioned for reinstatement of said license and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the issuance to Respondent of an unrestricted real estate salesperson license, in that:

I

In the 2000 Decision which revoked Respondent's real estate salesperson license, there were determinations of issues made that there was cause to revoke Respondent's restricted real estate salesperson license pursuant to Business and Professions Code ("Code") Sections 10176(a), 10177(d), 10177(g) and 10177(k).

The facts underlying said Decision were that on January 12, 1998, Respondent took a listing for an Exclusive Authorization to Rent or Lease ("Agreement") certain real property in Irvine, California for the owners of the property. The Agreement gave Respondent the right to locate a tenant for a one-year lease. Respondent rented the property without obtaining the owners signature on a written lease. The tenant did not have the ability or intent to pay rent and an eviction process was initiated. Respondent had sufficient notice that the tenant was not reliable.

II

On April 8, 1997, a Decision was rendered in Department case No. H-1998 SA. Said Decision revoked Respondent's real estate salesperson license with the right to a restricted salesperson license. A restricted real estate salesperson license was issued to Respondent on May 23, 1997.

There were determinations of issues made that there was cause to revoke Respondent's real estate salesperson license pursuant to Code Sections 10177(d) and 10177(g), for violation of Code Sections 10130, 10137 and 10145(c).

The facts underlying said Decision were that in 1992, Respondent acted as a real estate broker when he was not so licensed; Respondent failed to place trust funds received into his employing broker's trust fund account; and Respondent accepted employment from someone other than his employing broker.

III

On August 24, 1999, an Order Suspending Restricted Real Estate License was filed against Respondent in Department Case No. H-28209 LA. Respondent's restricted real estate salesperson license was suspended as a result of the filing of an Accusation by the Department charging Respondent with violating the Real Estate Law.

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IV

On or about March 6, 2000, Respondent made application to the Department for a real estate broker license. A Statement of Issues was filed against Respondent's application in Department case No. H-29063 LA.

On August 20, 2001, a Decision was rendered in Department case No. H-29063 LA, denying Respondent's application. There were conclusions of law made that there was cause to deny Respondent's application for a real estate broker license pursuant to Code Section 10177(f), due to the prior disciplinary actions against Respondent.

V

The burden of proving rehabilitation rests with the petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d 395).

The Department has developed criteria in Section 2911 of Title 10, Chapter 6, California Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

1 Regulation 2911(a): A longer period than two years
2 will be required if there is a history of acts or conduct
3 substantially related to the qualifications, functions or duties
4 of a real estate licensee. Considering Respondent's history of
5 disciplinary actions additional time is needed to assess his
6 rehabilitation.

7 Regulation 2911(i): Completion of, or enrollment in,
8 educational or vocational training courses. Respondent has not
9 submitted proof of such completion.

10 Regulation 2911(j): Discharge of or bona fide efforts
11 toward discharging, adjudicated debts or monetary obligations to
12 others. Respondent has approximately twelve (12) federal and tax
13 liens against him totaling approximately \$1,084,596. Respondent
14 has not provided proof that the tax liens have been paid or that
15 he has made bona fide efforts to pay the tax liens.

16 Regulation 2911(l): Significant or conscientious
17 involvement in community, church, or social programs. Respondent
18 has not submitted proof of such involvement.

19 Regulation 2911(n)(1): Change in attitude from that
20 which existed at the time of the conduct as evidenced by the
21 testimony of Respondent. As part of the petition application
22 process, Respondent was interviewed by a Deputy Real Estate
23 Commissioner ("Deputy"). The Deputy determined that Respondent
24 did not present a change in attitude. Respondent made statements
25 that conflicted with statements made at the hearing and
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27

1 Respondent blamed others for the facts that led to the revocation
2 of his real estate license.

3 Given the fact that Respondent has not established that
4 he has met the criteria of Regulations 2911(a), 2911(i), 2911(j),
5 2911(l) and 2911(n)(1), I am not satisfied that Respondent is
6 sufficiently rehabilitated to receive a real estate salesperson
7 license.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement of Respondent's real estate
10 salesperson license is denied.

11 I am satisfied, however, that it will not be against
12 the public interest to issue a restricted real estate salesperson
13 license to Respondent.

14 A restricted real estate salesperson license shall be
15 issued to Respondent pursuant to Code Section 10156.5 if
16 Respondent within twelve (12) months from the date hereof:

17 (a) makes application therefor and pays the appropriate
18 fee for said license.

19 (b) submits evidence of having, since the most recent
20 issuance of an original or renewal real estate license, taken and
21 successfully completed the continuing education requirements of
22 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
23 real estate license.

24 ///

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1 The restricted license issued to Respondent shall be
2 subject to all of the provisions of Code Section 10156.7 and to
3 the following limitations, conditions and restrictions imposed
4 under authority of Code Section 10156.6:

5 1. Within ninety (90) days after issuance of a
6 restricted license, Respondent shall submit evidence satisfactory
7 to the Real Estate Commissioner that he has entered into payment
8 plan agreements with each Federal and State entity that holds a
9 tax lien against him.

10 2. The restricted license issued to Respondent may
11 be suspended prior to hearing by Order of the Real Estate
12 Commissioner in the event of Respondent's conviction or plea
13 of nolo contendere to a crime which is substantially related.

14 3. The restricted license issued to Respondent may
15 be suspended prior to hearing by Order of the Real Estate
16 Commissioner on evidence satisfactory to the Commissioner that
17 Respondent has violated provisions of the California Real Estate
18 Law, the Subdivided Lands Law, Regulations of the Real Estate
19 Commissioner or conditions attaching to the restricted license.

20 4. During the term of the restricted license,
21 Respondent shall submit proof to Manager of the Crisis Response
22 Team in the Los Angeles District Office, that he is making
23 payments as agreed, to each Federal and State entity that holds
24 a tax lien against him. Such proof shall be submitted twice a
25 year, at the end of each June and December.
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1 The restricted license issued to Respondent may be
2 suspended prior to hearing by Order of the Real Estate
3 Commissioner on evidence satisfactory to the Commissioner that
4 Respondent has violated or defaulted on agreements with any
5 Federal and State entity that holds a tax lien against him, or
6 on evidence satisfactory to the Commissioner that Respondent has
7 failed to report to the Manager of the Crisis Response Team as
8 indicated above.

9 5. Respondent shall not be eligible to apply for the
10 issuance of an unrestricted real estate license nor for the
11 removal of any of the conditions, limitations, or restrictions of
12 a restricted license until two (2) years have elapsed from the
13 effective date of this Decision.

14 6. Respondent shall submit with any application for
15 license under an employing broker, or with any application for
16 transfer to a new employing broker, a statement signed by the
17 prospective employing real estate broker on a form approved by
18 the Department which shall certify:
19

20 (a) That the employing broker has read the Decision of
21 the Commissioner which granted the right to a restricted license;
22 and

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1 (b) That the employing broker will exercise close
2 supervision over the performance by the restricted licensee
3 relating to activities for which a real estate license is
4 required.

5 This Order shall become effective at 12 o'clock noon
6 on February 3, 2005.

7 DATED: 1-11-05, 2005.
8

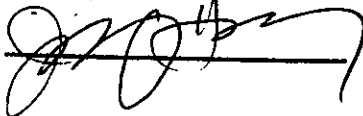
9 JEFF DAVI
10 Real Estate Commissioner
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24 cc: Charles D. Riebe
25 29 Timbergate
26 Irvine, CA 92614
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FILED
DEC 15 2004

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-1998 SA
CHARLES DUFFY RIEBE,) H-28209 LA
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On July 6, 2000, a Decision was rendered
in Department of Real Estate ("Department") case no.
H-28209 LA, revoking Respondent's real estate salesperson
license. On July 19, 2000, Respondent petitioned for
reconsideration of the Decision. The Decision which was
to become effective on August 3, 2000 was stayed until
September 15, 2000. On September 13, 2000, an Order Denying
Reconsideration was filed.

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///

On March 13, 2003, Respondent petitioned for reinstatement of said license and the Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the issuance to Respondent of an unrestricted real estate salesperson license, in that:

I

In the 2000 Decision which revoked Respondent's real estate salesperson license, there were determination of issues made that there was cause to revoke Respondent's restricted real estate salesperson license pursuant to Business and Professions Code ("Code") Sections 10176(a), 10177(d), 10177(g) and 10177(k).

The facts underlying said Decision were that on January 12, 1998, Respondent took a listing for an Exclusive Authorization to Rent or Lease ("Agreement") certain real property in Irvine, California for the owners of the property. The Agreement gave Respondent the right to locate a tenant for a one-year lease. Respondent rented the property without obtaining the owners signature on a written lease. The tenant

1 did not have the ability or intent to pay rent and an eviction
2 process was initiated. Respondent had sufficient notice that
3 the tenant was not reliable.

4
5 II

6 On April 8, 1997, a Decision was rendered in
7 Department case no. H-1998 SA. Said Decision revoked
8 Respondent's real estate salesperson license with the right
9 to a restricted salesperson license. A restricted real estate
10 salesperson license was issued to Respondent on May 23, 1997.

11 There were determination of issues made that there
12 was cause to revoke Respondent's real estate salesperson
13 license pursuant to Code Sections 10177(d) and 10177(g),
14 for violation of Code Sections 10130, 10137 and 10145(c).

15 The facts underlying said Decision were that in 1992,
16 Respondent acted as a real estate broker when he was not so
17 licensed; Respondent failed to place trust funds received into
18 his employing broker's trust fund account; and Respondent
19 accepted employment from someone other than his employing
20 broker.
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1 III

2 On August 24, 1999, an Order Suspending Restricted
3 Real Estate License was filed against Respondent in Department
4 Case No. H-28209 LA. Respondent's restricted real estate
5 salesperson license was suspended as a result of the filing
6 of an Accusation by the Department charging Respondent with
7 violating the Real Estate Law.

8 IV

9 On or about March 6, 2000, Respondent made
10 application to the Department for a real estate broker
11 license. A Statement of Issues was filed against
12 Respondent's application in Department case no. H-29063 LA.

14 On August 20, 2001, a Decision was rendered in
15 Department case no. H-29063 LA, denying Respondent's
16 application. There were conclusions of law made that there
17 was cause to deny Respondent's application for a real estate
18 broker license pursuant to Code Section 10177(f), due to the
19 prior disciplinary actions against Respondent.
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1
2 The burden of proving rehabilitation rests with
3 the petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541).
4 A petitioner is required to show greater proof of honesty and
5 integrity than an applicant for first time licensure. The
6 proof must be sufficient to overcome the prior adverse judgment
7 on the applicant's character (Tardiff v. State Bar (1980) 27
8 Cal. 3d 395).
9

10 The Department has developed criteria in Section 2911
11 of Title 10, Chapter 6, California Code of Regulations
12 (Regulations) to assist in evaluating the rehabilitation of an
13 applicant for reinstatement of a license. Among the criteria
14 relevant in this proceeding are:
15

16 Regulation 2911(a): A longer period than two years
17 will be required if there is a history of acts or conduct
18 substantially related to the qualifications, functions or duties
19 of a real estate licensee. Considering Respondent's history of
20 disciplinary actions additional time is needed to assess his
21 rehabilitation.

22 Regulation 2911(i): Completion of, or enrollment
23 in, educational or vocational training courses. Respondent
24 has not submitted proof of such completion.

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1 Regulation 2911(j): discharge of or bona fide efforts
2 toward discharging, adjudicated debts or monetary obligations to
3 others. Respondent has approximately twelve (12) federal and
4 tax liens against him totaling approximately \$1,084,596.

5 Respondent has not provided proof that the tax liens have been
6 paid or that he has made bona fide efforts to pay the tax liens.

7 Regulation 2911(l): Significant or conscientious
8 involvement in community, church, or social programs.

9 Respondent has not submitted proof of such involvement.

10 Regulation 2911(n)(1): Change in attitude from that
11 which existed at the time of the conduct as evidenced by the
12 testimony of Respondent. As part of the petition application
13 process, Respondent was interviewed by a Deputy Real Estate
14 Commissioner ("Deputy"). The Deputy determined that Respondent
15 did not present a change in attitude. Respondent made
16 statements that conflicted with statements made at the hearing
17 and Respondent blamed others for the facts that led to the
18 revocation of his real estate license.

19 Given the fact that Respondent has not established
20 that he has met the criteria of Regulations 2911(a), 2911(i),
21 2911(j), 2911(l) and 2911(n)(1), I am not satisfied that
22 Respondent is sufficiently rehabilitated to receive a real
23 estate salesperson license.

24 ///

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27

1 NOW, THEREFORE, IT IS ORDERED that Respondent's
2 petition for reinstatement of Respondent's real estate
3 salesperson license is denied.

4 I am satisfied, however, that it will not be against
5 the public interest to issue a restricted real estate
6 salesperson license to Respondent.

7 A restricted real estate salesperson license shall
8 be issued to Respondent pursuant to Code Section 10156.5
9 if Respondent within nine (9) months from the date hereof:

10 (a) makes application therefor and pays the
11 appropriate fee for said license.

12 (b) submits evidence of having, since the most recent
13 issuance of an original or renewal real estate license, taken
14 and successfully completed the continuing education requirements
15 of Article 2.5 of Chapter 3 of the Real Estate
16 Law for renewal of a real estate license.

17 (c) submits evidence that he has entered into payment
18 plan agreements with each Federal and State entity that holds a
19 tax lien against him.

20 The restricted license issued to Respondent shall be
21 subject to all of the provisions of Code Section 10156.7 and to
22 the following limitations, conditions and restrictions imposed
23 under authority of Code Section 10156.6:

24 ///

25 ///

1 1. The restricted license issued to Respondent
2 may be suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondent's conviction or plea
4 of nolo contendere to a crime which is substantially related
5 to Respondent's fitness or capacity as a real estate licensee.
6

7 2. The restricted license issued to Respondent
8 may be suspended prior to hearing by Order of the Real Estate
9 Commissioner on evidence satisfactory to the Commissioner that
10 Respondent has violated provisions of the California Real
11 Estate Law, the Subdivided Lands Law, Regulations of the Real
12 Estate Commissioner or conditions attaching to the restricted
13 license.
14

15 3. During the term of the restricted license,
16 Respondent shall submit proof to Manager of the Crisis Response
17 Team in the Los Angeles District Office, that he is making
18 payments as agreed, to each Federal and State entity that holds
19 a tax lien against him. Such proof shall be submitted twice a
20 year, at the end of each June and December.

21 The restricted license issued to Respondent
22 may be suspended prior to hearing by Order of the Real Estate
23 Commissioner on evidence satisfactory to the Commissioner that
24 Respondent has violated or defaulted on agreements with any
25 Federal and State entity that holds a tax lien against him, or
26 on evidence satisfactory to the Commissioner that Respondent
27

1 has failed to report to the Manager of the Crisis Response Team
2 as indicated above.

3 4. Respondent shall not be eligible to apply for
4 the issuance of an unrestricted real estate license nor for
5 the removal of any of the conditions, limitations or
6 restrictions of a restricted license until two (2) years
7 have elapsed from the effective date of this Decision.

8 5. Respondent shall submit with any application for
9 license under an employing broker, or with any application for
10 transfer to a new employing broker, a statement signed by the
11 prospective employing real estate broker on a form approved by
12 the Department which shall certify:
13
14

15 (a) That the employing broker has read the Decision
16 of the Commissioner which granted the right to a restricted
17 license; and

18 (b) That the employing broker will exercise close
19 supervision over the performance by the restricted licensee
20 relating to activities for which a real estate license is
21 required.
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Amended

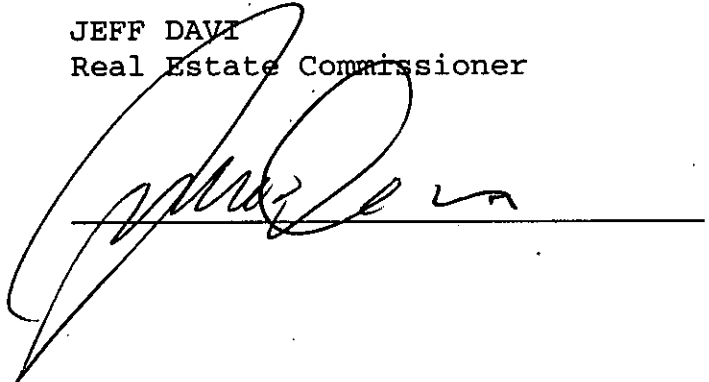
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This Order shall become effective at 12 o'clock noon

on January 4, 2005.

DATED: December 14 2004.

JEFF DAVI
Real Estate Commissioner



cc: Charles D. Riebe
29 Timbergate
Irvine, CA 92614

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FILED
APR - 9 1997
DEPARTMENT OF REAL ESTATE

By Emily J. Ikeda

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of) DRE No. H-1998 SA
CHARLES DUFFY RIEBE,) OAH No. L-9507101
Respondent.)

DECISION AFTER RECONSIDERATION

On January 30, 1997, a Decision was rendered herein by the Real Estate Commissioner which revoked the real estate salesperson license and license rights of respondent. Said Decision was to become effective on February 26, 1997.

On February 17, 1997, respondent petitioned for reconsideration of said Decision. On February 21, 1997, a stay was granted for a period of 30 days, staying the effective date until March 28, 1997. I have considered the petition of respondent and have concluded that good cause has been presented for reconsideration of the Decision of January 30, 1997, for the limited purpose of determining whether the disciplinary action therein imposed should be reduced.

1 I have reconsidered said Decision and it is hereby
2 ordered that the disciplinary action therein imposed against the
3 real estate salesperson license of respondent be reduced by
4 modifying the Order of said Decision to read as follows:

5 ORDER

6 WHEREFORE, THE FOLLOWING ORDER is hereby made:

7 A. The license and license rights of respondent CHARLES
8 DUFFY RIEBE under the provision of Part 1 of Division 4 of the
9 Business and Professions Code are hereby revoked.

10 B. A restricted real estate salesperson license shall
11 be issued to respondent pursuant to Section 10156.5 of the Code
12 upon respondent's application and payment of the appropriate fee,
13 provided the application is made within 180 days from the effective
14 date of the Decision herein.

15 C. The restricted license issued to respondent shall be
16 subject to all of the provisions of Section 10156.7 of the Code and
17 to the following limitations, conditions and restrictions imposed
18 under authority of Section 10156.6 of the Code:

19 1. The restricted license may be suspended prior
20 to hearing by Order of the Real Estate Commissioner in the event
21 that respondent is convicted or enters a plea of nolo contendere to
22 a crime which bears a significant relationship to the fitness or
23 capacity of respondent to the functions of a real estate license.

24 2. The restricted license may be suspended prior to
25 hearing by Order of the Real Estate Commissioner on evidence
26 satisfactory to the Real Estate Commissioner that respondent has
27 violated provisions of the California Real Estate Law, the



1 Subdivided Lands Law, Regulations of the Real Estate Commissioner,
2 or conditions attaching to the restricted license.

3 3. Respondent shall, within twelve months from the
4 effective date of this Decision, present evidence satisfactory to
5 the Real Estate Commissioner that respondent has, since the most
6 recent issuance of an original or renewal real estate license,
7 taken and successfully completed the continuing education
8 requirements of Article 2.5 of Chapter 3 of the Real Estate Law for
9 renewal of a real estate license. If respondent fails to satisfy
10 this condition, the Commissioner may order the suspension of the
11 restricted license until the respondent presents such evidence.
12 The Commissioner shall afford respondent the opportunity for a
13 hearing pursuant to the Administrative Procedure Act to present
14 such evidence.

15 4. Respondent shall not be eligible to apply for
16 the issuance of an unrestricted real estate license nor the removal
17 of any of the conditions, limitations or restrictions of a
18 restricted license until at least one year has elapsed from the
19 effective date of this Decision.

20 5. As a further precondition to issuance of a
21 restricted real estate salesperson license, respondent CHARLES
22 DUFFY RIEBE shall present evidence satisfactory to the Real
23 Estate Commissioner that he has made restitution to Candice
24 Taecker-Alexander in the amount of \$2,218.56 plus interest. In
25 the event that respondent cannot locate Candice Taecker-Alexander,
26 restitution may be made by tendering a cashier's check in said
27 amount with the Department of Real Estate.



1 6. With the application for license, or with the
2 application for transfer to a new employing broker, respondent
3 shall submit a statement signed by the prospective employing
4 broker on a form approved by the Department of Real Estate wherein
5 the employing broker shall certify as follows:

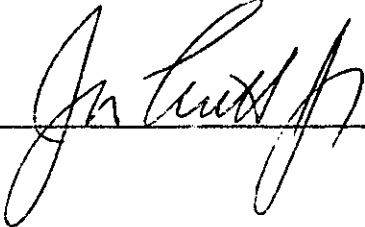
6 (a) That the broker has read the Order herein
7 and the Decision which is the basis for the
8 issuance of the restricted license; and

9 (b) That broker will carefully review all
10 transaction documents prepared by the
11 restricted licensee and otherwise exercise
12 close supervision over the licensee's
13 performance of acts for which a license is
14 required.

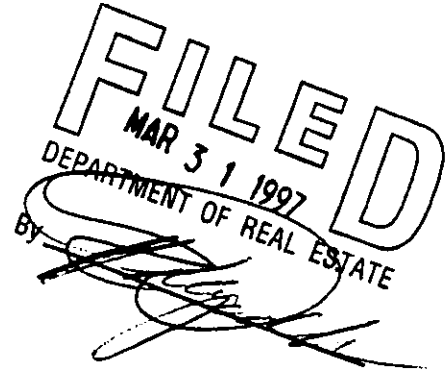
15 This Decision shall become effective at 12 o'clock noon
16 on April 29, 1997

17 IT IS SO ORDERED 4/8, 1997.

18 JIM ANTT, JR.
19 Real Estate Commissioner

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)

CHARLES DUFFY RIEBE,)

No. H-1998 SA
No. L-9507101

Respondent,)

ORDER STAYING EFFECTIVE DATE

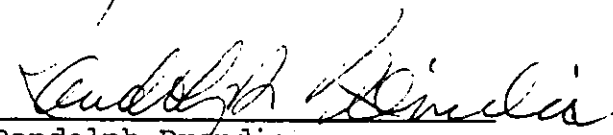
On January 30, 1997, a Decision was rendered in the above-entitled matter to become effective February 26, 1997. On February 21, 1997, an ORDER STAYING EFFECTIVE DATE stayed the effective date of February 26, 1997 for 30 days, staying the effective date until March 28, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision of January 30, 1997, is stayed for an additional period of 10 days.

The Decision of January 30, 1997, shall become effective at 12 o'clock noon on April 9, 1997..

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DATED: March 28, 1997


Randolph Brendia
Regional Manager

SACTO.
Flays

FILED
FEB 21 1997

DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-1998 SA
CHARLES DUFFY RIEBE,)	L-9507101
Respondent.)	

ORDER STAYING EFFECTIVE DATE

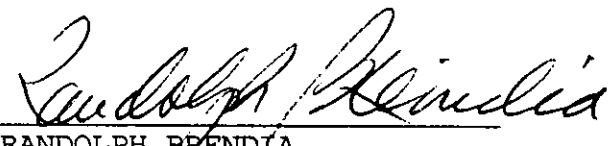
On January 30, 1997, a Decision was rendered in the above-entitled matter to become effective February 26, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision of January 30, 1997, is stayed for a period of 30 days.

The Decision of January 30, 1997, shall become effective at 12 o'clock noon on March 28, 1997.

DATED: February 21, 1997.

JIM ANTT, JR.
Real Estate Commissioner

By: 
RANDOLPH BRENDIA
Regional Manager

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FILED
FEB - 6 1997
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) DRE No. H-1998 SA
CHARLES DUFFY RIEBE,) OAH No. L-9507101
Respondent.)

DECISION AFTER REJECTION

The matter came on for hearing before H. Stuart Waxman, Pro Tempore Administrative Law Judge of the Office of Administrative hearings, in Los Angeles, California, on March 1, 1996.

Elliott Mac Lennan, Counsel, represented the complainant. Respondent appeared without counsel.

Evidence was received, the hearing was closed, and the matter was submitted.

On March 8, 1996, the Administrative Law Judge submitted a Proposed Decision which I declined to adopt as my Decision herein. Pursuant to Section 11517(c) of the Government Code of the State of California. Respondent was served with notice of my

1 determination not to adopt the Proposed Decision of the
2 Administrative Law Judge along with a copy of said Proposed
3 Decision. Respondent was notified that the case would be decided
4 by me upon the record, the transcript of proceedings held on March
5 1, 1996, and upon any written argument offered by Respondent after
6 the transcript was received. The transcript was received on
7 December 12, 1996. Respondent was notified of this fact and given
8 until December 31, 1996 to submit further argument.

9 No argument has been submitted on behalf of Respondent.

10 I have given careful consideration to the record in this
11 case, including the transcript of proceedings of March 1, 1996.

12 The following shall constitute the Decision of the Real
13 Estate Commissioner in the above entitled matter:

14 FINDINGS OF FACT

15 The Findings Of Fact set forth in the Proposed Decision
16 dated March 8, 1996 of the Administrative Law Judge are hereby
17 adopted as the Findings of Fact of the Real Estate Commissioner in
18 the above-entitled matter.

19 The Determination of Issues are also adopted by the Real
20 Estate Commissioner except for Paragraph 3.

21 DETERMINATION OF ISSUES

22 Cause exists under the provisions of Business and
23 Professions Code Sections 10130, 10137, 10145(c), 10177(d) and
24 10177(g) to discipline Respondent's real estate salesperson
25 license.

26 Contrary to the Finding and Order of the Administrative
27 Law Judge, I do not feel there are adequate or sufficient



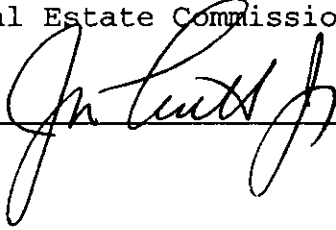
1 mitigating circumstances to establish that the public would be
2 adequately protected if respondent were allowed to keep his
3 present real estate salesperson license, albeit suspended, due to
4 the seriousness of the respondent's activities in acting in the
5 capacity as a real estate broker while licensed as a real estate
6 salesperson, accepting employment from other than his employing
7 broker, failing to place received trust funds into his broker's
8 trust account, for willful violation of the real estate law,
9 negligence and for failing to make restitution to Candice Taecker-
10 Alexander in the amount of \$2218.56.

11 ORDER

12 The real estate salesperson license of respondent
13 CHARLES DUFFY RIEBE for is hereby revoked.

14 This Decision shall become effective at 12 o'clock noon
15 on February 26, 1997.

16 IT IS SO ORDERED 1/30/97
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19 JIM ANTT, JR.
20 Real Estate Commissioner
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FILED
APR 19 1996
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
CHARLES DUFFY RIEBE,)	NO. H-1998 SA
Respondent.)	L-9507101

NOTICE

TO: CHARLES DUFFY RIEBE, Respondent

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated March 8, 1996, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated March 8, 1996, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on March 1, 1996, and any written argument hereafter submitted on behalf of respondent and complainant.

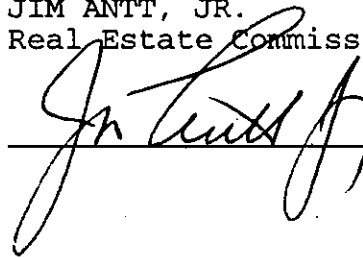
1 Written argument of respondent to be considered by me
2 must be submitted within 15 days after receipt of the transcript
3 of the proceedings of March 1, 1996, at the Los Angeles office of
4 the Department of Real Estate unless an extension of the time is
5 granted for good cause shown.

6 Written argument of complainant to be considered by me
7 must be submitted within 15 days after receipt of the argument of
8 respondent at the Los Angeles office of the Department of Real
9 Estate unless an extension of the time is granted for good cause
10 shown.

11 DATED: _____

4/12/96

12 JIM ANTT, JR.
13 Real Estate Commissioner

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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
CHARLES DUFFY RIEBE,)
Respondent.)

Case No. H-1998 SA
OAH No. L-9507101

PROPOSED DECISION

This matter came on regularly for hearing before H. Stuart Waxman, Pro Tempore Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on March 1, 1996. Complainant, Thomas McCrady and the Department of Real Estate ("Department"), were represented by Elliott Mac Lennan, Real Estate Counsel. Respondent, Charles Duffy Riebe, was present and represented himself.

Oral and documentary evidence was received, and the matter was submitted for decision.

Complainant's counsel orally amended Complainant's Exhibit 2, the License Certification of respondent, to indicate that respondent's real estate salesperson's license is scheduled to expire on October 17, 1999.

FINDINGS OF FACT

The Administrative Law Judge makes the following Findings of Fact:

1. The Accusation was made by Thomas McCrady, complainant, who is a Deputy Real Estate Commissioner of the State of California, acting in his official capacity.

2. Respondent was issued a license as a real estate salesperson by the Department of Real Estate on a date prior to January 1, 1992. (No evidence was presented containing the date of original licensure. However, respondent testified that he had been a real estate salesperson for nineteen (19) years.) The license is due to expire on October 17, 1999.

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3. At all times relevant to this matter, respondent was employed as a real estate salesperson by RE/MAX of Irvine. During at least part of that time, respondent held himself out as, and did business as a real property manager. Included in the services he offered was the collection of rents on properties he managed for his clients.

4. Respondent collected fees for his services. In so doing, he acted as a principal. He failed to specifically disclose to his clients that he was not an individual real estate broker.

5. In or about March of 1992, respondent was retained by Candice Taecker-Alexander ("Alexander") to manage a property owned by Alexander. In so doing, respondent received rental receipts from the tenant on the property, and received compensation for his services.

6. Respondent placed monies received in connection with the Alexander property into a banking account. The account was in respondent's name but was reserved specifically for funds received and disbursed in connection with his property management activities. Respondent did not use the account as a personal banking account.

7. The banking account referenced in paragraph 5, above, was not a trust account. Respondent testified that he did not open a trust account for his property management activities because he was unaware of his obligation to do so.

8. Respondent subsequently encountered personal financial difficulties which resulted in the funds contained in the banking account referenced above being seized by the Internal Revenue Service. Included in those funds was a sum owed by respondent to Alexander.

9. Respondent has not paid any of the amount he owes to Alexander.

10. Respondent presently owes Alexander \$2,218.56, including accrued interest.

11. In mitigation, respondent testified that Alexander was aware of his relationship with RE/MAX of Irvine through his advertisements and by virtue of the fact that Alexander was an attorney. Respondent agrees that he owes Alexander the above sum and that he is prepared to repay it within the next sixty (60) days. However, he also admitted that he has not repaid her to date because she filed a complaint against him rather than trying to "work it out" informally.

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12. Respondent offered the Affidavit of Richard Letourneau, together with respondent's own testimony, to refute the allegation in the Accusation that respondent allowed a personal friend to move into and store furniture in the Alexander property without charge and without Alexander's consent.

13. Respondent accepted responsibility and expressed remorse for his acts. He stated that he has never been involved in a lawsuit involving a real estate transaction in his entire 19 years as a real estate salesperson and that he enjoys a reputation for high professionalism among his peers.

14. All other evidence in aggravation and mitigation has been considered.

DETERMINATION OF ISSUES

Pursuant to the foregoing Findings of Fact, the Administrative Law Judge makes the following determination of issues:

1. Cause exists for the revocation or suspension of respondent's license pursuant to Business and Professions Code sections 10130 (engaging in the business of and acting in the capacity of a real estate broker); 10145(c) (failure to place received funds into broker's trust fund account); 10137 (accepting employment other than with employing broker); 10177(d) (willful disregard or violation of the Real Estate Law); and 10177(g) (negligence or incompetence in the performance of an act for which a license is required), as set forth in Findings 3, 4, 5, 6, 7, 8, 9, 10 and 11.

2. The Department failed to sustain its burden of proof with respect to its allegation that respondent allowed a personal friend to live in and store furniture in the Alexander property at no charge, and without Alexander's consent, as set forth in Finding 12.

3. Respondent is rehabilitated to the extent that it would not be contrary to the public interest to suspend his license, stay the suspension, and establish appropriate probationary conditions on his license, so as to protect the public welfare.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of respondent, Charles Duffy Riebe, under the Real Estate Law are suspended for a period of nine (9) months from the effective date of this Decision; provided, however, that said suspension shall be stayed for one (1) year upon the following terms and conditions:

NOT ADOPTED

1. That respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California.

2. That respondent shall, within sixty (60) days of the effective date of this decision, and as a condition of this probation, submit proof satisfactory to the Commissioner of payment of restitution in the amount of \$2218.56 to Candice Taecker-Alexander.

3. That respondent shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license.

4. That respondent shall, within six months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee.

5. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one (1) year of the effective date of this Decision.

6. Should respondent violate any of the terms or conditions of this probation, as set forth above, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such violation occur, the stay imposed herein shall become permanent.

DATED: March 8, 1996

H. Stuart Waxman
H. STUART WAXMAN
Pro Tempore Administrative Law Judge
Office of Administrative Hearings

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
DEC 20 1995
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
CHARLES DUFFY RIEBE,)
)
Respondent.)

By *[Signature]*

Case No. H-1998 SA
OAH No. L-9507101

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on **March 1, 1996**, at the hour of **9:00 a.m.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: December 20, 1995.

DEPARTMENT OF REAL ESTATE

[Signature]
ELLIOTT MAC LENNAN, Counsel

cc: Charles Duffy Riebe
J. Baron Inc.
Sacto.
OAH

RE 501 (Mac 8/92vj)

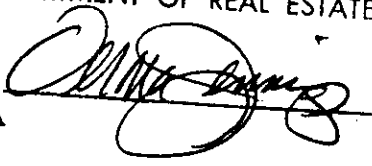
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 14 1995
DEPARTMENT OF REAL ESTATE

* * * *

In the Matter of the Accusation of)
CHARLES DUFFY RIEBE,)
Respondent.)

By 
Case No. H-1998 SA
OAH No. L-9507101

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on **December 26, 1995**, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: August 14, 1995.

cc: Charles Duffy Riebe
Sacto.
OAH

DEPARTMENT OF REAL ESTATE


ELLIOTT MAC LENNAN, Counsel

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ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3937

FILED
MAY 24 1995
DEPARTMENT OF REAL ESTATE

By *Orlando J. J. J. J.*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-1998 SA
)
CHARLES DUFFY RIEBE,) ACCUSATION
)
Respondent.)

The Complainant, Thomas McCrady, a Deputy Real Estate
Commissioner of the State of California, for cause of accusation
against CHARLES DUFFY RIEBE is informed and alleges in his
official capacity as follows:

I

CHARLES DUFFY RIEBE (RIEBE) (respondent) is presently
licensed and/or has license rights under the Real Estate Law (Part
1 of Division 4 of the California Business and Professions Code).

II

All references to the "Code" are to the California
Business and Professions Code and all references to "Regulations"
are to Chapter 6, Title 10, California Code of Regulations.

1 III

2 RIEBE is presently licensed and/or has license rights
3 under the Real Estate Law. RIEBE was originally licensed as a
4 real estate salesperson on May 13, 1977. Said license will expire
5 on May 29, 1995. At all mentioned times, RIEBE was licensed as a
6 real estate salesperson and not as a broker by the California
7 Department of Real Estate (Department).

8 IV

9 At all times herein mentioned, in the city of
10 Irvine, Santa Ana County, RIEBE was employed as a salesperson for
11 RE/MAX of Irvine. Unbeknownst to RE/MAX, respondent for
12 compensation or in expectation of compensation engaged in the
13 business of, acted in the capacity of, advertised or assumed to
14 act as an individual real estate broker in the State of California
15 within the meaning of Section 10131(b) of the Code, including
16 being principally engaged in real property management activities
17 including collecting rent for real property.

18 V

19 In or about March, 1992, Candice Taecker-Alexander
20 (Alexander) retained the services of RIEBE for the purpose of
21 managing her property located at 22 Meadowgrass, Irvine,
22 California. RIEBE, unbeknownst to his broker, RE/MAX of Irvine,
23 accepted compensation as management fees directly from rental
24 receipts received from Jay Schneider (Schneider), the tenant.
25 Respondent accepted several deposits from Schneider including a
26 deposit in the amount of \$2,600. Ultimately he acted to evict
27 Schneider. After eviction and the consequent cessation of rental

1 receipts, respondent continued to pay himself compensation in the
2 form of management fees from the prior deposits collected from
3 Schneider. Additionally, respondent allowed a personal friend to
4 move in and store furniture without authorization from Alexander
5 and without payment of rent.

6 VI

7 The conduct of RIEBE, as described in Paragraph V,
8 above, constitutes a violation of Section 10145(c) of the Code.
9 This conduct and violation are cause to suspend or revoke the real
10 estate license and license rights of RIEBE pursuant to Sections
11 10137, 10177(d) and 10177(g) of the Code.

12 WHEREFORE, Complainant prays that a hearing be conducted
13 on the allegations made by the Accusation and that upon proof
14 thereof, a decision be rendered imposing disciplinary action
15 against the license and license rights of respondent CHARLES DUFFY
16 RIEBE under the Real Estate Law (Part 1 of Division 4 of the
17 Business and Professions Code) and for such other and further
18 relief as may be proper under other applicable provisions of law.
19 Dated at Santa Ana, California
20 this 24th day of May, 1995.

21
22 _____ THOMAS MCCRADY

Deputy Real Estate Commissioner

23
24
25 cc: Charles Duffy Riebe
26 Sacto.
AK
27